

Caltrans Native American Advisory Committee Quarterly Meeting Minutes

February 2, 2001

Chairperson Ben Scerato called the meeting to order at 9:05 a.m.

Opening Prayer: Committee member Albert Phoenix opened the meeting with prayer

Welcome: Chairperson Ben Scerato welcomed everyone to the meeting.

Roll Call: Roll was called: Committee attendees were Dore Bietz, Samuel Elizondo, Everett Freeman, Joseph Garcia, Sr., Earl Green, Benjamin Magante, Bo Mazzetti, Joseph Myers, Dave Nenna, Albert Phoenix, Lorenda Sanchez, Ben Scerato, and Kathy Wallace; Committee Alternate attendees were Jack Biondini, Greg Nesti and Hank Sanchez. Committee members not in attendance were William H. Richards, Sr., and Jeff Romero. Mr. Scerato introduced his Committee Alternate, Arlene Linton; Alternate for Dave Nenna, Joey Martinez; Alternate for Kathy Wallace, Cassandra Hensher; and, Alternate for Earl Green, Ted Sanchez.

Adopt Agenda: The Agenda was accepted by the Committee: Motion by Benjamin Magante; Second by Joseph Myers.

Approve Minutes: The Minutes of the November 9, 2000 meeting were approved, with one correction: Mr. Joseph Myers did not make the motion to dismiss Committee members that had missed two consecutive meetings. Motion to accept minutes, with correction, by Joseph Myers; Second by Benjamin Magante.

Chairperson's Report : Ben Scerato described how the Southern California tribes are having trouble with the counties regarding road conditions in those areas where there is casino traffic. Counties are attempting to blame tribes for maintenance needs and want the tribes to pay for all of the necessary improvements. Mr. Scerato has been in touch with Gary Gallegos, District Director.

Director's Representatives:

Brian Smith, Deputy Director, expressed Caltrans' appreciation of the Committee's service in 2000. (Certificates in recognition of such service were received by the Committee members following the meeting.)

Mr. Smith informed the Committee that he and the Director would be traveling to Oregon for the purpose of meeting with members of Oregon's Department of Transportation. One

item to be discussed is how Oregon works with tribes regarding their transportation issues.

Mr. Smith announced that the Federal Highway Administration selected Timothy R. Penney for the new position of Native American program coordinator in Washington, D.C. Mr. Penney is an enrolled member of the Red Cliff Band of Lake Superior Chippewa tribe.

Joan Sollenberger, Program Manager, reported that staff had presented a primer on Native American issues during the District Directors' meeting in November and that the Directors were receptive to the ideas presented.

In December, Ms. Sollenberger, Bo Mazzetti, Committee member, and Ms. Gomez attended the California Transportation Commission (CTC) meeting. Mr. Mazzetti addressed the CTC. His comments were well received.

Ms. Sollenberger announced that Lorenda Sanchez, Committee member, California Indian Manpower Consortium (CIMC), was a recent graduate of the Caltrans Transportation Planning Academy.

Sharon Scherzinger, Chief, Regional and Interagency Planning, reported that the Native American Liaison Branch was fully staffed. Staff was working on numerous projects, including cultural and air quality issues, working closely with the legal division.

General discussion ensued on several items, including a request by Angel Winn, Chairman, Pit River Tribe, for technical assistance in the area of cultural resources from Caltrans NA Liaison staff. Mr. Winn indicated that help was needed with Memorandums of Understanding with District 2 for all the bands of the tribe. Thom Niesen, Director, District 2, was in attendance and said that he would meet with Mr. Winn so that the tribal concerns could be addressed.

Additionally, Vernon Johnson, representative from the Inter-Tribal Council of California, who is also a member of the Susanville Indian Rancheria, inquired about a section of road on the Rancheria that Caltrans and the Bureau of Indian Affairs (BIA) had committed to fixing, but had not done so. Cynthia Gomez, Chief, Native American Liaison Branch (NALB), indicated that there had been problems in signing an agreement, and that there was a meeting scheduled for the following week to try to resolve those problems. Wade Hobbs, Federal Highway Administration (FHWA) representative, and Kanu Patel, Road Engineer, BIA, discussed the funding for the project and the discrepancies in the information that each had received from their respective headquarters. Bo Mazzetti requested documentation on the funding. Messrs. Hobbs and Patel will pursue. Mr. Niesen assured all parties that Caltrans is very committed to the project, and Mr. Hobbs commented that transferring funds from FHWA for BIA projects is not unique to Susanville. Cynthia Gomez will be the point of contact in the resolution of this item.

OLD BUSINESS:

- 1. 2001 Welcome to NAAC Members.** Ben Scerato welcomed new members to the Committee and emphasized the importance of attending all of the meetings. Kathy Wallace, California Indian Basketweavers Association (CIBA) member, introduced her Alternate, Cassandra Hensher. Vernon Johnson, announced that Joe Sanchez will probably be the Committee member from Susanville Indian Rancheria as Mr. Harold Dixon, current member, is ill and will not be able to attend. The Tribe will notify the NALB in writing to that effect.
- 2. Welcome New NA Liaison Branch Employees.** Sharon Scherzinger introduced the new staff of the NALB, Jila Priebe and Betty Miller. Doug Sibley and Jay Vega, District 4, were introduced, also.
- 3. Negotiated Rule Making Update.** Kanu Patel reported that a letter had been sent to all California tribes on January 25, 2001, which included a copy of the "Temporary Rule" in the Federal Register Vol. 66, No.6, Tuesday, January 9, 2001. The Temporary Rule requires the BIA Central Office to set aside \$19.5 million dollars for Tribal Administrative Capacity Building. The tribes must submit an application for the planning funds by March 15, 2001. Mr. Kanu distributed copies of the letter to the Committee. The tribes can receive a maximum of \$35,000 (Thirty-five Thousand Dollars) each. Mr. Patel reported that the Negotiated Rulemaking Committee did not develop a new formula in time for this year's funding cycle. The BIA will use the old formula for this year's funding. The funds will remain in the Central office in Washington, D.C. until the applications are received from the tribes. In further discussion of the formula, Randy Feliz, Hopland Reservation, related some of the discussion held by the Rulemaking Committee in determining the funding. Kanu Patel gave a brief presentation on the Indian Reservation Road (IRR) Program distribution formulas. He reported that the proposed regulations for the IRR distribution formulas are on hold until further notice, due to the change of administration. There were two formulas that were recommended. The formula that will benefit California tribes is the "New Relative Need Formula." Bo Mazzetti made a motion to pass a resolution endorsing the "New Relative Need Formula," Second by Ben Magante. Motion approved. The resolution to go to the Caltrans Director.
- 4. Caltrans Landscaping Program.** Gary Bush, Landscape Architect, Caltrans, discussed the possibilities for including native plants in the landscaping plans of Caltrans. Mr. Bush indicated that Caltrans does include native plants along the roadways. These are primarily in the urban areas. He suggested that the best way to incorporate the plants of interest to Native Americans would be for tribes and associations to join the "Adopt-A-Highway" program. Caltrans would work with the groups in their efforts to plant and maintain portions of the highways' flora. There is landscape architectural staff in every district, and Mr. Bush would like to work with the tribes on this project.

During the ensuing discussion to a number of questions, Mr. Bush indicated that types of plants could be added to the list that had previously been supplied to the Committee by Randy Ferguson, R.J.F. Enterprises. In a follow-up question regarding the Adopt-A-

Highway program, he indicated that Caltrans does not participate financially, rather it helps by providing safety gear at the work locations. Dore Bietz suggested that she and CIBA work with Caltrans on this project through the NALB. A request was made to add Chokeberries and wild Mustard greens to the list of plants. Blue Lake Rancheria and Tule River Indian Reservation have participated in the Adopt-A-Highway program. The Forest Service near Red Bluff planted Red Bud and Cat Tails.

Relative to maintenance, Everett Freeman reminded the group that a common sense approach needed to be taken with the projects, emphasizing the importance of safety. Kathy Wallace commented on how important it is to mow the plants along the highways after they have flowered and/or seeded, and she asked if Caltrans could accommodate that need. Mr. Bush indicated that the Maintenance Department needed to be aware of the importance of the mowing schedules. Angel Winn stated that the native people's concerns should be respected. Cassandra Hensher asked about the lead damage to the plants from vehicle exhaust. Mr. Bush replied that the Caltrans studies had not addressed this problem. Karen Nissen, Central Region Native American Liaison, indicated that there is a Roadside Management Representative at each District. She added that Caltrans must satisfy herbicide reduction and mitigation requirements. Tina Biorn stated that Caltrans Hazardous Waste unit has done some studies in lead contamination but mostly in the urban areas where there are large concentration of lead.

5. Letter to the Caltrans Director. Mr. McKay was not present. No discussion on this item.

6. Acquisition and Leasing Procedures for Tribal Procurement Update. Joan Sollenberger reported that Mike Brown, Caltrans Department of General Services (DGS) had not responded to tribes' request/position that tribes should be able to participate in the program. NALB to do follow up on this.

Karen Nissan asked if it would be possible to get computers donated to tribes. Olivia Fonseca, Caltrans Civil Rights Program Director, said that DGS maintains a list of schools that can receive used computer equipment. To get on the list, the tribes would need to complete a questionnaire. Used equipment is sent to one of two warehouses in the state to the Surplus Properties Department. Earl Green asked if tribal Head Start programs are accredited for surplus property. Bo Mazzetti said that problem might be getting tribes added to DGS list. It was indicated that if the tribe was a non-profit, or the tribal school was non-profit, they could apply for computer equipment.

7. Reservation Transportation Authority. Bo Mazzetti explained that the Reservation Transportation Authority (RTA) is an incorporation of 24 southern California tribes that contract the roads program from the BIA. Cynthia Gomez assisted in obtaining grant funds for transportation studies for the RTA. Traffic counts are being conducted via video. The RTA is publishing a booklet for distribution to all tribes. The RTA is the only one of its kind in the country.

Mr. Mazzetti reported on the CTC meeting that he attended in Riverside. The CTC endorsed Mr. Mazzetti's request to have mitigation fees for highways returned to the areas from which they are collected. The CTC endorsed a request to have a Native American on the CTC. Another item of discussion at the meeting regarded set aside funds to cover short fall (obligation Limitation) in allocated authority of Indian Reservation Road Program funds. Need to develop method for getting "buffer" funds back to tribes.

Ben Scerato mentioned that counties in the state try to require tribes to adhere to the requirements of the California Environmental Quality Act (CEQA), but that CEQA does not apply within reservation boundaries. Also, the RTA is working to get exempt plates for tribal vehicles. DMV says it is not possible as the Vehicle Code is currently written. Barona tribe's attorney helping with getting the Code changed.

Daniel Cardenas, Pit River Tribe, asked Mr. Mazzetti if he would be willing to deliver a presentation to tribes in central California. Mr. Mazzetti said that he would. Dore Bietz mentioned that the Central California Agency's budget meeting would be in February and that the budget meeting might be a good time for the presentation. NAAC Quarterly Meeting Minutes February 1, 2001.

Ms. Bietz reminded participants that tribes must deal with BIA regarding easements and rights-of-way. Good idea to get easements/rights-of-way for land purchases before putting in trust. Can amend existing rights-of-way without abandoning prior one.

Discussion returned to expanding RTA to other tribes. Messrs. Mazzetti and Scerato emphasized the value of uniting for the good of all tribes in going to Washington, D.C. to get tribal needs met. Mr. Mazzetti expressed his gratitude to Kanu Patel for his support to the tribes.

8. California Indian Policy Statement. Cynthia Gomez reported that the policy would be sent through the Caltrans approval process. Ms. Gomez stated that the internal review of the handbook is continuing, also.

9. Environmental and Cultural Issues. Randy Yonemura reiterated his concerns that Caltrans is not addressing the rights of Native Americans when planning projects. His overriding contention is that Caltrans does not adequately consult with Native Americans, particularly with regard to Section 106 of National Historic Preservation Act. Mr. Yonemura requested the support of the Committee in resolving this problem. A lengthy discussion ensued which reinforced the need for early consultation with tribes. Joan Sollenberger stressed that the NAAC meetings are a good forum for problems such as this to be discussed/resolved, and she suggested a presentation on the overall planning process is arranged for the next quarterly meeting.

NEW BUSINESS:

1. California Transportation Plan. Nathan Smith and Susan Sdonia, Office of State Planning, presented the stages of the public participation program strategy that will go into the California Transportation Plan.

2. FHWA - Intermodal Planning Group. Wade Hobbs, FHWA, presented a look at the Intermodal Planning Group (FHWA, Caltrans, Metropolitan Planning Organizations (MPOs)). The group meets once a year and reviews the Overall Work Program (OWP) of the MPOs. This review of the OWP can be a tool to monitor the MPOs and determine whether they are making efforts to work with tribes on a government-to-government basis. The meetings are open to the public. The NALB will post the dates of future meetings of the FHWA/MPOs on its web site.

Mr. Hobbs further explained that MPOs are metropolitan areas with a population of at least 50,000. Many MPOs have a population that is greater than 200,000, which changes their designation to a Transportation Management Agency (TMA). These are federal designations, and these agencies are subject to federal review. On the other hand, non-urban regional agencies are under the purview of Caltrans.

The FHWA and Federal Transit Administration (FTA) will meet with tribes and are prepared to assist them in a review of the cognizant statutes and regulations regarding transportation. Mr. Hobbs will provide the web site address to the NALB, also.

CALTRANS REPORTS:

Larry Orcutt, Caltrans Maintenance. Larry Orcutt reported that there is a maintenance budget in the amount of \$800 million dollars. He indicated that Caltrans would need more information about where to mow, and not spray, in order to accommodate the requests that were made during Mr. Bush's presentation. The information needed can be entered in the Geographic Information System (GIS) database.

There was discussion regarding the basketweavers forming a roadside vegetation committee and Martin Martinez mentioned that Redwood Valley Rancheria has a nursery and could sell native plants to Caltrans.

Cynthia Gomez, Chief, Native American Liaison Branch. Cynthia Gomez reported on the environmental justice efforts, working with planning programs and putting information together for legal. The NALB worked on specific projects in Districts 2, 3, 5, and 10 during the last quarter. Information went to the Caltrans Director and the District Directors regarding gaming.

Karen Nissen, Central Region Native American Liaison. Karen Nissen distributed an economic opportunity policy statement to the Committee and reviewed the activities conducted in the Central Region during the last quarter. Tina Biorn, Environmental Program, HQ: Tina Biorn spoke to the concerns voiced by Randy Yonemura earlier in the meeting. Ms. Biorn will be meeting with Mr. Yonemura, and will report to the Committee. She has been in contact with the FHWA and the State Historic Preservation

Officer in an effort to improve emphasis on "Section 106" requirements. Ms. Biorn attended the Native American Historical Society meeting in October. The next meeting is scheduled for March 16, 2001. Kathleen Sartorius, Northern Region Native American Liaison . Kathleen Sartorius reported that the Yurok Tribe has requested to contract for the archeology work on their reservation. The passage of Proposition 35 allows for such contracts. One is being written for the Yurok Tribe for on-call services.

ANNOUNCEMENTS/OPEN FORUM:

Timothy R. Penney, the newly selected FHWA Native American Program Coordinator, is scheduled to meet with NAAC officers, Caltrans and FHWA officials on March 27, 2001. Penney is also scheduled to attend the August 2, 2001 NAAC meeting.

The Committee agreed to change the date of the next quarterly meeting to May 1, 2001. (Discussion took place just after lunch. Messrs. Mazzetti and Scerato were unable to attend the afternoon session. Dave Nenna, Committee Secretary, conducted afternoon session.)

In a follow-up to Wade Hobbs' presentation, the Committee asked if Mr. Hobbs could return to present more information regarding the federal transportation environment. Mr. Hobbs agreed to do so.

ADJOURNMENT:

Joseph Myers moved to adjourn the meeting. Kathy Wallace seconded the motion. Dave Nenna adjourned the meeting at 3:00 p.m.

Submitted by: Betty Miller Native American Liaison Branch